

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

Market Oversight

18.04.07 – Restrictions on Discretionary Clauses

Who does this rule apply to?

This rule applies to health carriers transacting insurance in Idaho, excluding health insurance contract for group coverage offered by or through an employer to its employees.

What is the purpose of this rule?

This rule sets forth uniform requirements regarding the use of discretionary clauses to be followed by health carriers.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

- [41-02, et seq., Idaho Code](#) – The Department of Insurance
- [41-13, et seq., Idaho Code](#) – Trade Practices and Frauds
- [41-18, et seq., Idaho Code](#) – The Insurance Contract

Who do I contact for more information on this rule?

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000. LEGAL AUTHORITY.

Title 41, Chapters 2, 13 and 18, Idaho Code.

(7-1-21)T

001. TITLE AND SCOPE.

01. **Title.** IDAPA 18.04.07, “Restrictions on Discretionary Clauses in Health Insurance Contracts.”

(7-1-21)T

02. **Scope.** This rule sets forth uniform requirements regarding the use of discretionary clauses to be followed by health carriers transacting insurance in Idaho. This chapter does not apply to a health insurance contract for group coverage offered by or through an employer to its employees.

(7-1-21)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Discretionary Clause.** Any health insurance contract provision that provides the health carrier with sole discretionary authority to determine eligibility for benefits or to interpret the terms and provisions of the health insurance contract.

(7-1-21)T

03. **Health Care Services.** Services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury, or disease.

(7-1-21)T

04. **Health Carrier.** An entity subject to regulation under Title 41, Chapters 21, 22, 32, 34, 39, 40, 41, 47, 52 or 55, Idaho Code.

(7-1-21)T

05. **Health Insurance Contract.** Any policy, contract, certificate, agreement, or other form or document providing, defining, or explaining coverage for health care services offered, delivered, issued for delivery, continued, or renewed in this state by a health carrier.

(7-1-21)T

011. DISCRETIONARY CLAUSES.

No health insurance contract may contain a discretionary clause.

(7-1-21)T

012. GROUNDS FOR DISAPPROVAL.

Any health insurance contract containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the policyholder and the insurance-buying public. In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health insurance contract is grounds for the Director to disapprove the health insurance contract in accordance with Section 41-1813, Idaho Code.

(7-1-21)T

013. -- 999. (RESERVED)

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